TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1902. 1903.

No. 155.

JOHN E. SEXTON, PLAINTIFF IN ERROR,

vs.

THE PEOPLE OF THE STATE OF CALIFORNIA.

IN ERROR TO THE SUPREME COURT OF THE STATE OF CALIFORNIA.

FILED AUGUST 26, 1902.

(18,251.)

(18,251.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1901.

No. 398.

JOHN E. SEXTON, PLAINTIFF IN ERROR,

vs.

THE PEOPLE OF THE STATE OF CALIFORNIA.

IN ERROR TO THE SUPREME COURT OF THE STATE OF CALIFORNIA

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JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C., SEPTEMBER 23, 1901.

1 *Writ of Error.*

UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable the chief justice and associate justices of the supreme court of the State of California and to the said supreme court, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a cause which is in the said supreme court, before you, between The People of the State of California and John E. Sexton, as by his complaint appears, we, being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the records and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at the city of Washington in the District of Columbia, on the 30th day of May A. D. 1901, in the Supreme Court of the United States, that the record and proceedings aforesaid being inspected, the Supreme Court of the United States may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, the 1st day of April in the year of our Lord one thousand nine hundred and one.

[Seal U. S. Circuit Court, Northern Dist. Cal.]

SOUTHARD HOFFMAN,
Clerk of the Circuit Court of the United States,
Northern District of California.

2 The foregoing writ of error is hereby allowed, and it is ordered that a supersedeas upon the judgment in said writ mentioned be, and the same is hereby granted.

W. H. BEATTY,
Chief Justice of the Supreme Court of the State of California.

Dated at San Francisco this 30th day of March A. D. 1901.

3 [Endorsed:] Crim. 657 Original. John E. Sexton plaintiff in error *vs.* The People of the State of California defendant in error. Writ of error. Filed Apr. 1 1901 Geo. W. Root, clerk. By W. E. Boody deputy. George D. Collins, 21–22 Crocker bldg., San Francisco, Cal., attorney for John E. Sexton plaintiff in error.

4 *Transcript of Record.*

Error to the supreme court of the State of California.

Supreme Court of the State of California, *ss.*

Return to Writ of Error.

The answer of the chief justice and associate justices of the supreme court of the State of California.

The record and proceedings of the plaint whereof mention is within made, with all things touching the same, we certify under the seal of our supreme court of the State of California, within mentioned, at the day and place within contained, as we are commanded by the annexed writ of error.

By the court.

[Seal Supreme Court of California.]

GEO. W. ROOT,
Clerk of the Supreme Court of the State of California.
W. E. BOODY, *Deputy.*

5 *Indictment for Extortion.*

In the Superior Court of the County of El Dorado, State of California, the 25th Day of November, A. D. 1899.

THE PEOPLE OF THE STATE OF CALIFORNIA
vs.
JOHN E. SEXTON and S. H. BRIGGS.

John E. Sexton and S. H. Briggs are accused by the grand jury of the said county of El Dorado, by this indictment, of the crime of extortion, committed as follows, to wit: The said John E. Sexton and S. H. Briggs, prior to the finding of this indictment, on or about the 20th day of June, A. D. 1898, at the county of El Dorado, State of California, did willfully, unlawfully and feloniously obtain from one C. Greenwald certain personal property consisting of money, the property of the said C. Greenwald, to the amount and value of thirty dollars with the consent of said Greenwald induced by the wrongful use and exercise upon him of fear by means of a threat then and there made by the said John E. Sexton and S. H. Briggs to accuse him, the said Greenwald, of the crime of having, in violation of the laws of the United States of America, sold and delivered cigars in a form other than in a new box not before used for the purpose of packing cigars therein contrary to the form, force and effect of the statute in such case made and provided, and against the peace and dignity of the people of the State of California.

ABE DARLINGTON,
District Attorney.

Witnesses sworn and examined before the grand jury: C.
6 Greenwald, I. Jacobs, Kate Thompson and John E. Sexton.

Endorsed: 1256. In the superior court of El Dorado, State of California. The People of the State of California against John E. Sexton and S. H. Briggs. Indictment for extortion. A true bill. R. P. Patterson, foreman of the grand jury. Presented and filed in open superior court on this the 25th day of November, 1899. John P. Fisher, clerk.

7 *Motion to Set Aside Indictment.*

In the Superior Court of the County of El Dorado, State of California.

THE PEOPLE OF THE STATE OF CALIFORNIA }
vs.
JOHN E. SEXTON and S. H. BRIGGS. }

Now comes the defendant John E. Sexton, one of the defendants, and moves the court to set aside the indictment heretofore filed in the above-entitled cause and as grounds allege:

1. That said indictment was not found, endorsed and presented as provided by the penal code.
2. That the names of the witnesses examined before the grand jury are not endorsed at the foot of the indictment.
3. That at least twelve jurors did not concur in finding the said indictment.
4. That said indictment or presentment was not presented by the foreman in the presence of the grand jury before being filed with the clerk.
5. That the grand jury which found said indictment was not selected, empannelled or drawn as provided by law.
6. That the requisite number of ballots was not drawn from the jury-box of the county.
7. That notice of the drawing of the grand jury was not given.
8. That the drawing was not had in the presence of the officers designated by law.
9. That this court has no jurisdiction of the offense charged in the indictment nor of the person of the defendant.

9. That the property alleged to have been acquired is not
8 described.

Wherefore defendant prays that said indictment be set aside and that he be hence dismissed.

F. ADAMS,
Attorney for Defendant.

(Endorsed:) 1256. In the superior court of the county of El Dorado, State of California. The People of the State of California *vs.* John E. Sexton and S. H. Briggs. Motion to set aside. Filed Dec. 4, 1899. John P. Fisher, clerk.

9 *Order Denying Motion to Set Aside Indictment.*

MONDAY, *December 4th*, 1899.

Present: Hon. M. P. Bennett, judge.

THE PEOPLE OF THE STATE OF CALIFORNIA
vs.
JOHN E. SEXTON and S. H. BRIGGS.

The defendant John E. Sexton with his counsel F. Adams and the defendant S. H. Briggs with his counsel Chas. A. Swisler and the district attorney, came into court.

The defendant Sexton, by his counsel, on a motion filed November 20th, 1899, moves the court to dismiss the cause therein specified upon the grounds in said motion mentioned. The court declined to hear the motion on the ground that the matter before the court was the answer of said defendant to the indictment pending and required said defendant to proceed with his answer to said indictment, to which ruling defendant excepts.

Motion to set aside indictment filed by defendant Secton, said motion denied by the court, exception by defendant Sexton.

10 *Judgment of the Superior Court in and for the County of El Dorado, State of California.*

In the Superior Court of the County of El Dorado, State of California.

FRIDAY, *February 2nd*, 1900.

Present: Hon. M. P. Bennett, judge.

THE PEOPLE OF THE STATE OF CALIFORNIA
against
JOHN E. SEXTON and S. H. BRIGGS. } Extortion.

The district attorney, with the defendant John E. Sexton with his counsel, F. Adams, came into court. The defendant was duly informed of the nature of the indictment found against him, and filed in the superior court of the county of El Dorado, State of California, on the 25th day of November 1899, for the crime of extortion committed on or about the 20th day of June, 1898, of his arraignment and plea of: -

"Not guilty of the offense charged in the indictment and his plea that he has been once in jeopardy for the offense charged in this indictment during the years 1898 and 1899 in the superior court of the county of El Dorado, State of California, at Placerville, in said county of El Dorado, under an indictment filed in this court against S. H. Briggs and this defendant on the 15th day of December, 1898, which indictment was pending in said court from said last-mentioned day until January 25th, 1899, on which last-named day a demurrer interposed by this defendant to said indictment was sustained by the court."

Of his trial and the verdict of the jury rendered on the 25th day of January, 1900, in the words following:

11 In the Superior Court of the County of El Dorado, State of California.

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiffs,
vs.
JOHN E. SEXTON and S. H. BRIGGS, Defendants.

We the jury in the above-entitled action find the defendant John E. Sexton guilty as charged in the indictment. Upon his plea that he has been once in jeopardy for the offense charged in this indictment during the years 1898 and 1899 in the superior court of the county of El Dorado, State of California, at Placerville, in the said county of El Dorado, under an indictment filed in this court against said defendants on the 15th day of December, 1898, which indictment was pending in said court from said last-mentioned day until January 24th, 1899, on which last-named day a demurrer interposed by this defendant, John E. Sexton, to said indictment was sustained by the court, we find for the people.

M. B. BAXTER, *Foreman.*

The said defendant was then asked if he had any legal cause to show why judgment should not be pronounced against him, in reply to which said defendant moved for a new trial, which motion was by the court denied and disallowed, whereupon defendant moved in arrest of judgment, which motion was by the court denied and disallowed, and no sufficient cause being shown or appearing to the court, thereupon the court rendered its judgment.

That whereas the said John E. Sexton having been duly convicted in this court of the crime of extortion.

12 It is therefore ordered, adjudged and decreed that the said John E. Sexton be punished by imprisonment in the State prison of the State of California at Folsom, for the term of two years.

The said defendant was then remanded to the custody of the sheriff of said county, to be by him delivered into the custody of the proper officers of the said State prison of the State of California at Folsom.

(Endorsed:) 1256. In the superior court of the county of El Dorado, State of California. The People of the State of California *vs.* John E. Sexton and S. H. Briggs. Judgment. Filed, February 2, 1900. John B. Fisher, clerk. B. 342.

13 *Notice of Appeal.*

In the Superior Court of the County of El Dorado, State of California.

THE PEOPLE OF THE STATE OF CALIFORNIA
vs.
JOHN E. SEXTON and S. H. BRIGGS.

To the superior court of the county of El Dorado, State of California, and Abe Darlington, Esq., district attorney of said county:

You will please take notice that the defendant John E. Sexton, appeals to the supreme court of the State of California, from the order of the superior court of the county of El Dorado, State of California, made and entered on the 2nd day of February A. D. 1900, denying said defendant's motion for a new trial.

And said defendant appeals from the order of the superior court of the county of El Dorado, State of California, made on the 2nd day of February, A. D. 1900, denying said defendant's motion in arrest of judgment.

And said defendant appeals from the judgment of the superior court of the county of El Dorado, State of California, made and entered against him by said court herein on the 2nd day of February, A. D. 1900, sentencing him to be imprisoned in the State prison of this State, at Folsom, for the term of two years, and from the whole thereof. Said appeal is taken upon questions of law and errors of law arising during the trial of said action, which are specified in bills of exceptions on file in said cause, and bills of exceptions to be prepared, settled and allowed herein, and upon the papers and records of said case.

14 Dated this 2nd day of February, A. D. 1900.

F. ADAMS,
J. W. KEYES,
CLARKE HOWARD,
Attorneys for Defendant Sexton.

Service of a copy of the within is admitted this 5th day of February, A. D. 1900.

ABE DARLINGTON,
District Attorney.

(Endorsed:) Filed February 5th, 1900. John P. Fisher, clerk.

15 *Opinion of the Supreme Court of the State of California.*

THE PEOPLE OF THE STATE OF CALIFORNIA, Respondent,
vs.
JOHN E. SEXTON, Appellant.
Crim. No. 651.

Defendant has been convicted of the crime of extortion and appeals to this court. By the indictment it was alleged that defend-

ant obtained thirty dollars from one Greenwald under fear induced by threats upon the part of defendant to accuse him (Greenwald) of the "crime of having in violation of the laws of the United States of America sold and delivered cigars in a form other than in a new box not before used for the purposes of packing cigars therein." In substance it may be said that defendant threatened to accuse Greenwald of violating the United States revenue laws and under fear induced by such threat secured from Greenwald the aforesaid sum of $30.

It is insisted that the facts alleged do not constitute an offense against the laws of the State of California, but upon the contrary, constitute a crime exclusively within the jurisdiction of the Federal court. We find nothing in this contention. The defendant is charged with the crime of extortion, an offense directly within the jurisdiction of the State courts. He is not charged with a violation of a Federal statute, but with a violation of a State statute. He
16 threatens to accuse a man with the commission of a crime. It makes no difference if that crime be one solely triable in the Federal courts, for defendant is not being tried for that crime. If he had threatened to have Greenwald arrested upon the charge of counterfeiting the money of this country, and was charged with the crime of extortion for that reason, clearly his offence would be one against the laws of this State. It would be extortion as defined by the penal code of this State, and this court would not be concerned as to whether or not defendant's crime was also punishable under Federal laws. The court finds no substantial defect in the indictment, and the demurrer thereto is not well taken.

A demurrer to a previous indictment against defendant was sustained and the case referred to a second grand jury, which grand jury returned the indictment now before the court. It is insisted that defendant's second prosecution should have been based upon a preliminary examination, and an information filed thereon. There is no merit in this position. When section 1008 of the Penal Code says that after such order of resubmission the defendant "may be examined before a magistrate," the word "may" takes its usual, ordinary meaning, and is not to be construed as must.

The stenographer who was present and took the testimony before the grand jury was sworn as a witness and testified as to certain evidence given by defendant before that body. This evidence in no sense amounted to a confession, and hence no question of duress or menace upon the part of defendant at the time he gave his testimony is involved herein. Under such circumstances defendant's statements, whether made in the grand jury room, at the trial, or extrajudicial, may be used against him, and we see no error
17 in their admission here. The stenographer had the right to read from her notes of his evidence taken at the time, if she was so inclined. The statute contemplates that she may thus refresh her recollection. (Section 2047, C. C. P.; Burbank *vs.* Dennia, 101 Cal., 104.)

We find nothing further in the record demanding consideration. While the evidence tending to support the evidence in this case is

very weak, we are not prepared to say it is insufficient. Owing to the peculiar circumstances of the case and the character of the evidence relied upon to support the verdict, we think the law would have been well satisfied with a judgment finding the defendant guilty of a misdemeanor.

W. E. B.

But that is a matter beyond review by this court.

For the foregoing reasons the judgment and order are affirmed.

GAROUTTE, J.

We concur:

VAN DYKE, J.

HARRISON, J.

Filed, February 26, 1901.

18 *Judgment of the Supreme Court of the State of California.*

FEB. 26, '01.

PEOPLE, ETC., Respondent, vs. JOHN E. SEXTON, Appellant. } Crim. No. 651. Dept. 1. On Appeal from the Superior Court in and for the County of El Dorado.

And now, at this day, this cause being called, and having been heretofore submitted and taken under advisement by the court, and all and singular the law and the premises being by the court here seen, heard, understood and fully considered, the opinion of the court herein is delivered by Garoutte, J. We concur: Van Dyke, J., Henshaw, J.

Whereupon it is now considered, ordered, adjudged and decreed by the court here, that the judgment and order of the superior court in and for the county of El Dorado in the above-entitled cause, be and the same are hereby affirmed.

Remittitur issued, March 29, '01.

19 *Order of the Supreme Court of the State of California Denying Rehearing.*

In the Supreme Court of the State of California. In Banc.

PEOPLE vs. SEXTON. } Crim. No. 659.

By the court:

Rehearing denied, March 28, 1901.

(Endorsed:) Filed Mar. 28, 1901. Geo. W. Root, clerk, by Geo. H. Ryan, deputy.

20 *Petition for Writ of Error and Order Allowing Writ.*

PEOPLE OF THE STATE OF CALIFORNIA
vs.
JOHN E. SEXTON. } Crim. No. 651.

To the Honorable W. H. Beatty, chief justice of the supreme court of the State of California:

The petition of John E. Sexton respectfully shows that on the 26th day of February A. D. 1901 the supreme court of the State of California rendered its judgment in the above-entitled cause, against your petitioner, and thereafter on the 28th day of March A. D. 1901 denied his petition for a rehearing.

That the People of the State of California are plaintiffs in said action and your petitioner the said John E. Sexton is the defendant therein.

That the said judgment of the supreme court of California is final, and is the decision in the highest court of the State in which a decision in said action could be had. That your petitioner claims a writ of error herein, against the said judgment upon the following grounds viz:

1. That the supreme court of the State of California committed manifest error in said action, in deciding therein that section five hundred and eighteen of the Penal Code of the State of California is not in conflict with and is not repugnant to the provisions of section one of article 3 and with section one of article 14 of the Constitution of the United States and with section 711 and section 5484 of the Revised Statutes of the United States.

2. That your petitioner, defendant in said action is by the
21 judgment of the superior court in and for the county of El Dorado, and by the said judgment of the supreme court of the State of California affirming said judgment of said superior court, deprived of his liberty without due process of law, and is denied the equal protection of the law, contrary to the provisions of section one of article 14 of the Constitution of the United States.

All of which errors above enumerated appear affirmatively from the record and proceedings herein, to which reference is hereby made; that said errors are to the great damage of your petitioner and he therefore prays that he be allowed a writ of error herein and such other process as will enable him to obtain a review of the case and a correction of said errors by the Supreme Court of the United States; and your petitioner will ever pray etc.

GEORGE D. COLLINS,
Counsel for Petitioner, John E. Sexton.

Upon the foregoing petition it appears that the writ of error therein prayed for of right ought to issue. It is therefore ordered that said writ of error be, and the same hereby is allowed, the said writ to operate a supersedeas, and the petitioner John E. Sexton is ordered to furnish upon said writ a bond for costs and damages in

the penal sum of five hundred dollars and conditioned as prescribed by law.

W. H. BEATTY,
Chief Justice of the Supreme Court of the State of California.

Dated March 30th 1901.

(Endorsed:) Filed Mar. 30, 1901, Geo. W. Root, clerk By W. E. Boody, deputy clerk.

22 *Assignment of Errors.*

JOHN E. SEXTON, Plaintiff in Error,
vs.
THE PEOPLE OF THE STATE OF CALIFORNIA, Defendant in Error.

Of October term, in the year of our Lord one thousand nine hundred.

Afterwards, to wit, on the 30th day of March A. D. 1901, in the same term, before the justices of the Supreme Court of the United States, comes the said John E. Sexton, by Mr. George D. Collins his counsel, and says that in the record and proceedings in the action of The People of the State of California *vs.* John E. Sexton, crim. No. 651 in the supreme court of the State of California, there is manifest error in this to wit:

1. That the supreme court of the State of California committed manifest error in said action, in deciding therein that section five hundred and eighteen of the Penal Code of the State of California is not in conflict with and is not repugnant to the provisions of section one of article 3 and with section one of article 14 of the Constitution of the United States and with section 711 and section 5484 of the Revised Statutes of the United States.

2. That your petitioner, defendant in said action is by the judgment of the superior court in and for the county of Eldorado, and by the said judgment of the supreme court of the State of
23 California affirming said judgment of said superior court, deprived of his liberty without due process of law, and is denied the equal protection of the law, contrary to the provisions of section one of article 14 of the Constitution of the United States.

Whereas by the law of the land, said judgment of the supreme court of the State of California ought to have been given for the said John E. Sexton, plaintiff in error, and against The People of the State of California, defendant in error; and the said plaintiff in error, the said John E. Sexton prays the judgment of the supreme court of the State of California, *to* be reversed, annulled, and altogether held for nothing, and that he be restored to all things which he hath lost by occasion of the said judgment.

GEORGE D. COLLINS,
Attorney for Plaintiff in Error, John E. Sexton.

(Endorsed:) Filed Mar. 30, 1901 Geo. W. Root, clerk by W. E. Boody, deputy clerk.

24 *Citation on Writ of Error.*

The President of the United States to the People of the State of California, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at the city of Washington in the District of Columbia on the 30th day of May, A. D. 1901, pursuant to a writ of error lodged in the clerk's office of the supreme court of the State of California wherein John E. Sexton is the plaintiff in error, and you are the defendant in error, to show cause if any there be, why the final judgment rendered against the said plaintiff in error, as in the said — error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Hon. W. H. Beatty chief justice of the supreme court of the State of California this 30th day of March A. D. 1901, at the city and county of San Francisco, in the State of California.

W. H. BEATTY,
Chief Justice of the Supreme Court of the State of California.

Service of the foregoing citation upon The People of the State of California, the defendant in error is hereby certified to and admitted to have been made at the city and county of San Francisco, on the first day of April A. D. 1901, after lodgment of the writ of error as above stated.

TIREY L. FORD,
Attorney General of the State of California,
Attorney for Defendant in Error,
By A. A. MOORE, Jr., *Deputy.*

25 [Endorsed:] Crim. 651 Original John E. Sexton plaintiff in error *vs.* The People of the State of California defendant in error. Citation on writ of error. Filed Mar. 30 1901 Geo. W. Root, clerk. By W. E. Boody deputy. George D. Collins, 21–22 Crocker bldg., San Francisco, Cal., attorney for plaintiff in error.

26 In the Supreme Court of the State of California.

People of the State of California, Respondent, *vs.* John E. Sexton, Appellant.	Crim. No. 651.

Certificate.

It is hereby certified that in the above-entitled cause there was drawn in question before the supreme court of the State of California, and by the appellant John E. Sexton, the validity of section five hundred and eighteen of the Penal Code of the State of California and also the validity of the judgment of the superior court in and for the county of El Dorado in the case of The People of the State of

California plaintiff *vs.* John E. Sexton defendant, and also the validity of the judgment of the supreme court of the State of California in the above-entitled cause, on the grounds that the said provision of the Penal Code of said State, and the said judgment of the supreme court of the State of California and the said judgment of the said superior court in and for the county of El Dorado are repugnant to and in conflict with the provisions of section one of the fourteenth amendment of the Constitution of the United States and with section seven hundred and eleven and section five thousand four hundred and eighty-four of the Revised Statutes of the United States, and that by said judgment and by said judgment of the supreme court affirming said judgment of the superior court, the said John
27 E. Sexton is deprived of his liberty without due process of law, and is denied the equal protection of the law, contrary to the provisions of section one of the fourteenth amendment of the Constitution of the United States.

And it is further certified that upon all said questions the decision of the supreme court of the State of California was in favor of the validity of said section five hundred and eighteen of the Penal Code of said State, and in favor of the validity of the judgment of the said supreme court and in favor of the validity of the said judgment of the said superior court in and for said county of El Dorado.

W. H. BEATTY,
Chief Justice of the Supreme Court of the State of California.

28 [Endorsed:] Crim. No. 651. Supreme court State of California. People of the State of California respondent *vs.* John E. Sexton appellant. Certificate as to Federal questions. George D. Collins, 21–22 Crocker bldg., San Francisco, Cal., attorney for appellant.

29 *Certificate.*

In the Supreme Court of the State of California.

PEOPLE OF THE STATE OF CALIFORNIA, Respondent,
vs.
JOHN E. SEXTON, Appellant.

It is hereby certified that John E. Sexton, the plaintiff in error, lodged in the office of the clerk of the supreme court of the State of California, on the 1st day of April, 1901, a true copy
W. E. B. of the writ of error, for the defendant in error, The People of the State of California.

GEO. W. ROOT,
Clerk of the Supreme Court of the State of California.
W. E. BOODY, *Deputy.*

30 *Clerk's Certificate to Transcript.*

STATE OF CALIFORNIA, }
City and County of San Francisco, } ss:

I, George W. Root, clerk of the supreme court of the State of California, do hereby certify that the foregoing twenty-nine pages, numbered from one to 29, inclusive, are a true copy of the record, and of all proceedings in the cause mentioned in the annexed writ of error, and that the same constitute the return to said writ.

I further certify to the Supreme Court of the United States, on said writ of error, the annexed certificate of the supreme court of the State of California, signed by the chief justice thereof.

In witness whereof, I have hereunto set my hand and caused the seal of the said supreme court of the State of California to be affixed at San Francisco, this 12 day of August A. D. 1901.

[Seal Supreme Court of California.]

GEO. W. ROOT,
Clerk of the Supreme Court of the State of California,
By W. E. BOODY, *Deputy.*

[Endorsed:] Supreme Court of the United States of America. John E. Sexton, plaintiff in error, *vs.* The People of the State of California, defendant in error. Transcript of record. Error to the supreme court of the State of California. George D. Collins, 21–22 Crocker bldg., San Francisco, Cal., attorney for plaintiff in error.

Endorsed on cover: File No. 18,251. California supreme court. Term No. 398. John E. Sexton, plaintiff in error, *vs.* The People of the State of California. Filed August 20th, 1901.